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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,590

03/29/2004

Dale C.H. Nevison

2812

39434

7590

02/09/2006

GREGORY T. ZALECKI

12900 HALL ROAD

SUITE 400

STERLING HEIGHTS, MI 48313

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,590	<b>Applicant(s)</b> NEVISON, DALE C.H.	
	<b>Examiner</b> Alicia Chevalier	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **RESPONSE TO AMENDMENT**

1. Claims 1-14 are pending in the application, claims 8-11 are withdrawn from consideration.
2. Amendments to the specification and the claims, filed on Dec. 27, 2005, have been entered in the above-identified application.

### ***WITHDRAWN REJECTIONS***

3. The 35 U.S.C. §102 rejections made of record in the office action mailed July 26, 2005 pages 2-6, paragraphs 6-9 have been withdrawn due to Applicant's amendment in the response filed December 27, 2005.
4. The 35 U.S.C. §103 rejections made of record in the office action mailed July 26, 2005, pages 6-7, paragraph 11 has been withdrawn due to Applicant's amendment in the response filed December 27, 2005.

### ***REJECTIONS***

5. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

### ***Specification***

6. The amendment filed Dec. 27, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall

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introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: paragraph [0032] “stud shaped” and paragraph [0036] “upstanding nubby”. First the examiner cannot tell from the figures if the long legs are stud shape or not, since they are mostly shown in profile. Also, from figure 2 the long legs kind of look clover shape, not that the examiner is stating that Applicant’s have support for that. Second, the retention lip does not look like a small knob or lump. While the examiner admits there support for the retention lip being separate from the trench, there is no support for “nubby.” In conclusion, there is no support in the original disclosure for “stud shaped” or “upstanding nubby.”

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 2, 5-7 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claims 1 and 5 contain(s) the limitation “stud shaped.” The original specification did not disclose that the long legs where stud shaped, therefore this limitation is considered new matter. As stated above, the examiner cannot tell

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from the figures if the long legs are stud shape or not, since they are mostly shown in profile.

Also, from figure 2 the long legs kind of look clover shape, not that the examiner is stating that Applicant's have support for that.

Applicant is required to cancel the new matter in the reply to this Office Action.

9. Claims 4, 6, 7, 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claims 4 and 6 contain(s) the limitation "upstanding nubby." The original specification did not disclose that the retention lip was an up standing nubby, therefore this limitation is considered new matter. As stated above, the retention lip does not look like a small knob or lump. While the examiner admits there support for the retention lip being separate from the trench, there is no support for "nubby."

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Rejections - 35 USC § 102***

10. Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Rosan et al. (U.S. Patent No. 3).

Regarding Applicant's claim 3, Rosan discloses a mat (*modular walkway, title*) comprising a mat base having a top surface and a bottom surface and a plurality of channels subdividing the mat top surface into mat segments (*figure 1*), wherein each said channel has a floor and lateral wall surface and wherein the lateral wall surface has a drain opening permitting

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drainage from the top surface of the mat to below the bottom surface of the mat (*figure 5a and col. 4, lines 21-25*).

### ***ANSWERS TO APPLICANT'S ARGUMENTS***

11. Applicant's arguments in the response filed December 27, 2005 regarding the previous rejections of record have been considered but are moot since the rejections have been withdrawn.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fagan (U.S. Patent 5,447,387) and Taylor (U.S. Patent 2,810,672) disclose similar mats.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature, possibly 'AC', in black ink.

ac  
2/6/06

A handwritten signature in black ink, appearing to read 'Alicia Chevalier'.

**ALICIA CHEVALIER  
PRIMARY EXAMINER**